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OFFICE OF PETITIONS

In re Application of :  
Michael J. Emery, et. al. :  
Application No. 10/026,189 : ON PETITION  
Filed: December 21, 2001 :  
Attorney Docket No. I20 01530 US :

This is a decision on the petition under 37 CFR 1.137(b), filed on September 25, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowability mailed April 3, 2006. A Notice of Abandonment was mailed on August 15, 2006.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Further, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of three (3) sheets of replacement drawings containing Figures 1, and 3-5; (2) the petition fee of \$1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of \$1,400 for payment of the issue fee and \$300 for payment of the publication fee submitted on May 11, 2006.

This application file is being referred to the Office of Publications for review of the replacement drawings filed on September 25, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.



Andrea Smith  
Petitions Examiner  
Office of Petitions

cc: Paul Greeley  
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